

CHRISTI CRADDICK, CHAIRMAN  
RYAN SITTON, COMMISSIONER  
WAYNE CHRISTIAN, COMMISSIONER



ALEXANDER C. SCHOCH, GENERAL COUNSEL

# RAILROAD COMMISSION OF TEXAS

## OFFICE OF GENERAL COUNSEL

### MEMORANDUM

**TO:** Chairman Christi Craddick  
Commissioner Ryan Sitton  
Commissioner Wayne Christian

**FROM:** Haley Cochran, Attorney *HC*  
Office of General Counsel

**THROUGH:** Alexander C. Schoch, General Counsel

**DATE:** October 13, 2020

**SUBJECT:** Proposed Amendments to 16 TAC Chapters 13, 14, and 15, relating to Alternative Fuels Safety Regulations

October 20, 2020		
Approved	Denied	Abstain
DS <i>CC</i> DS <i>WC</i> DS <i>RS</i>		

DS  
*CF*

Attached are proposals to amend the Commission's Alternative Fuels Regulations in 16 Texas Administrative Code Chapters 13, 14, and 15. The amendments to Chapters 13 and 14, relating to Regulations for Compressed Natural Gas and Regulations for Liquefied Natural Gas respectively, are proposed to implement changes from the 86th Legislative Session. The amendments also adopt by reference National Fire Protection Association standards. Finally, the amendments update, clarify, and ensure consistency among the Commission's alternative fuels regulations.

The attached materials on Chapter 15, relating to Alternative Fuels Programs, propose repeal of the chapter due to repeal of the governing statute during the 85th Legislative Session.

Staff requests the Commission's approval to publish the proposed amendments and repeal in the *Texas Register* for public comment. If approved at conference on October 20th, the proposals should appear in the November 6th issue of the *Texas Register*. The proposals and an online comment form would also be made available on the Commission's website by October 21st, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director  
Kari French, Director, Oversight and Safety Division  
April Richardson, Director, Alternative Fuels Safety



1           The Railroad Commission of Texas proposes the repeal of 16 Texas Administrative Code Chapter  
2 15, relating to Alternative Fuels Programs, specifically §§15.1 - 15.13, relating to Purpose; Definitions;  
3 Establishment and Duration; Availability of Funds; Eligibility; Application; Conditions of Receipt of  
4 Rebate or Incentive; Selection of Equipment and Installer; Rebate or Incentive Amount; Minimum  
5 Efficiency Factor; or Performance Standard; Verification, Safety, Disallowance, and Refund; Assignment  
6 of Rebate or Incentive; Compliance; and Complaints. The repeals are proposed pursuant to House Bill  
7 1818, 85th Legislative Session (2017) which repealed the statute authorizing the Alternative Fuels  
8 Research and Education program.

9           Texas Natural Resources Code Chapter 113, Subchapter I, provided authority to create the  
10 Alternative Fuels Research and Education Program. In 2013, House Bill 7 (83rd Legislature) repealed  
11 Texas Natural Resources Code, Chapter 113, Subchapter I, and moved the authority for the program to  
12 Texas Natural Resources Code section 81.0681, which read (in part): "The commission shall adopt all  
13 necessary rules relating to activities regarding the use of alternative fuels that are or have the potential to  
14 be effective in improving the air quality, energy security, or economy of this state." Finally, House Bill  
15 1818 of the 85<sup>th</sup> Legislature repealed §81.0681, thus eliminating the Alternative Fuels Research and  
16 Education Program. The proposal would repeal Commission rules related to this program.

17           April Richardson, Director, Alternative Fuels Department, Oversight and Safety Division, has  
18 determined that for each year of the first five years the repeals as proposed are in effect, there will be no  
19 fiscal effect on state or local government.

20           Ms. Richardson has determined that for the first five years the proposed repeals are in effect, the  
21 primary public benefit will be the elimination of unnecessary Commission rules and consistency with the  
22 Commission's governing statutes.

1 Ms. Richardson has determined that for each year of the first five years that the repeals will be in  
2 effect, there will be no economic costs for persons required to comply as a result of adoption of the  
3 proposed repeals.

4 The Commission has determined that the proposed repeals will not have an adverse economic  
5 effect on rural communities, small businesses or micro businesses. Therefore, the Commission has not  
6 prepared the economic impact statement or the regulatory flexibility analysis pursuant to Texas  
7 Government Code §2006.002.

8 The Commission has also determined that the proposed repeals will not affect a local economy.  
9 Therefore, the Commission has not prepared a local employment impact statement pursuant to Texas  
10 Government Code §2001.022.

11 The Commission has determined that the repeals do not meet the statutory definition of a major  
12 environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory  
13 analysis conducted pursuant to that section is not required.

14 During the first five years that the repeals would be in full effect, the proposed repeals would not:  
15 require an increase or decrease in future legislative appropriations; create a new regulation; increase or  
16 decrease the number of individuals subject to the rule's applicability; expand, limit, or repeal an existing  
17 regulation; or affect the state's economy. The proposed repeal would not eliminate a government program  
18 but would remove rules related to a program that was eliminated by the legislature.

19 Comments on the proposed repeals may be submitted to Rules Coordinator, Office of General  
20 Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at  
21 [www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings](http://www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings); or by electronic mail  
22 to [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov). The Commission will accept comments until 12:00 noon on Monday,  
23 December 14, 2020. The Commission finds that this comment period is reasonable because the proposal  
24 and an online comment form will be available on the Commission's website more than two weeks prior to

1 *Texas Register* publication of the proposal, giving interested persons additional time to review, analyze,  
2 draft, and submit comments. The Commission cannot guarantee that comments submitted after the  
3 deadline will be considered. For further information, call Ms. Richardson at (512) 463-6935. The status of  
4 Commission rulemakings in progress is available at [www.rrc.texas.gov/general-counsel/rules/proposed-](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules)  
5 rules. Once received, all comments are posted on the Commission's website at  
6 <https://rrc.texas.gov/general-counsel/rules/proposed-rules>. If you submit a comment and do not see the  
7 comment posted at this link within three business days of submittal, please call the Office of General  
8 Counsel at (512) 463-7149. The Commission has safeguards to prevent emailed comments from getting  
9 lost; however, your operating system's or email server's settings may delay or prevent receipt.

10           The Commission proposes the repeals pursuant to House Bill 1818 (85<sup>th</sup> Legislature, 2017).  
11 House Bill 1818 repealed Nat. Res. Code §81.0681 which authorized the Commission to adopt all  
12 necessary rules relating to activities regarding the use of alternative fuels that are or have the potential to  
13 be effective in improving the air quality, energy security, or economy of this state.

14           Statutory authority: Texas Natural Resources Code, §81.0681.

15           Cross-reference to statute: Texas Natural Resources Code, Chapter 81.

16

17 §15.1. Purpose.

18 §15.2. Definitions.

19 §15.3. Establishment and Duration.

20 §15.4. Availability of Funds.

21 §15.5. Eligibility.

22 §15.6. Application.

1 §15.7. Conditions of Receipt of Rebate or Incentive.

2 §15.8. Selection of Equipment and Installer.

3 §15.9. Rebate or Incentive Amount, Minimum Efficiency Factor, or Performance Standard.

4 §15.10. Verification, Safety, Disallowance, and Refund.

5 §15.11. Assignment of Rebate or Incentive.

6 §15.12. Compliance.

7 §15.13. Complaints.

8           This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be  
9 within the agency's authority to adopt.

10           Issued in Austin, Texas on October 20th, 2020.

11           Filed with the Office of the Secretary of State on October 20th, 2020.

  
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Haley Cochran  
Rules Attorney, Office of General Counsel  
Railroad Commission of Texas